

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
SAN ANTONIO DIVISION

JAMES AVERY CRAFTSMAN, INC.

Plaintiff,

v.

PRASHANT GURNANI

d/b/a ORO GRANDE, et al.

Defendant.

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CIVIL ACTION NO. SA-09-CV-925-XR

JURY TRIAL DEMANDED

**DEFENDANT PRASHANT GURNANI D/B/A ORO GRANDE'S ANSWER, AND  
AFFIRMATIVE DEFENSES**

Defendant, Prashant Gurnani d/b/a Oro Grande, by and through his attorney responds to each paragraph in Plaintiffs First Amended Complaint for Copyright Infringement in the same numerical order as the paragraphs contained therein.

**JURISDICTION AND VENUE**

1. Admitted.
2. Admitted.

**PARTIES**

3. Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments contained in paragraph number three; therefore, the averments in paragraph three are denied.
4. Admitted.

5. Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments contained in paragraph number five; therefore, the averments in paragraph five are denied.
6. Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments contained in paragraph number six; therefore, the averments in paragraph six are denied.
7. Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments contained in paragraph number seven; therefore, the averments in paragraph seven are denied.
8. Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments contained in paragraph number eight; therefore, the averments in paragraph eight are denied.

#### **FACTUAL BACKGROUND**

9. Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments contained in paragraph number nine; therefore, the averments in paragraph nine are denied.
10. Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments contained in paragraph number ten; therefore, the averments in paragraph ten are denied.
11. Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments contained in paragraph number eleven; therefore, the averments in paragraph eleven are denied.
12. Defendant is without knowledge or information sufficient to form a belief as to the truth of

the averments contained in paragraph number twelve; therefore, the averments in paragraph twelve are denied.

13. Denied.

14. Denied.

15. Defendant admits that Exhibit EE appears to be a copy of a Seized Property and Evidence Log but Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments contained in the Log and the remaining averments contained in paragraph number fifteen; therefore, on that basis the averments are denied.

16. Denied as to Defendant Gurnani. As to the other listed defendants, Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments contained in paragraph number sixteen; therefore, on that basis the averments are denied.

17. Denied as to Defendant Gurnani. As to the other listed defendants, Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments contained in paragraph number seventeen; therefore, on that basis the averments are denied.

18. Denied as to Defendant Gurnani. As to the other listed defendants, Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments contained in paragraph number eighteen; therefore, on that basis the averments are denied.

19. Denied.

20. Denied.

21. Denied.

22. Denied.

23. Denied.

24. Denied as to Defendant Gurnani. As to the other listed defendants, Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments contained in paragraph number twenty four; therefore, on that basis the averments are denied.

**COUNT I – COPYRIGHT INFRINGEMENT**

25. Defendant repeats and re-alleges each and every allegation contained in the preceding paragraphs as if fully set forth herein.
26. Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments contained in paragraph number twenty-six; therefore, the averments in paragraph twenty-six are denied.
27. Denied as to Defendant Gurnani. As to the other listed defendants, Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments contained in paragraph number twenty-seven; therefore, on that basis the averments are denied.
28. Denied as to the willful and unauthorized copying of Plaintiff's works as to Defendant Gurnani. As to the other listed defendants and the remaining averments, Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments contained in paragraph number twenty-eight; therefore, on that basis the averments are denied.
29. Denied as to the willful infringement of Plaintiff's works as to Defendant Gurnani. As to the other listed defendants and the remaining averments, Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments contained in paragraph number twenty-nine; therefore, on that basis the averments are denied.

30. Denied as to the willful infringement of Plaintiff's works as to Defendant Gurnani. As to the other listed defendants and the remaining averments, Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments contained in paragraph number twenty-eight; therefore, on that basis the averments are denied.
31. Denied. Defendant also denies that Plaintiff are entitled to relief as requested in their prayer.

**COUNT II - CONTRIBUTORY COPYRIGHT INFRINGEMENT**

32. Defendant repeats and re-alleges each and every allegation contained in the preceding paragraphs as if fully set forth herein.
33. Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments contained in paragraph number thirty-three; therefore, the averments in paragraph thirty-three are denied.
34. Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments contained in paragraph number thirty-four; therefore, the averments in paragraph thirty-four are denied.
35. Denied as to Defendant Gurnani. As to the other listed defendants, Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments contained in paragraph number thirty-five; therefore, on that basis the averments are denied.
36. Denied as to Defendant Gurnani. As to the other listed defendants and the remaining averments, Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments contained in paragraph number thirty-six; therefore, on that basis the averments are denied.

37. Denied as to the willful and unauthorized copying, production, distribution, sale and display of the infringement of Plaintiff's works as to Defendant Gurnani. As to the other listed defendants and the remaining averments, Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments contained in paragraph number thirty-seven; therefore, on that basis the averments are denied.
38. Denied as to the willful infringement of Plaintiff's works as to Defendant Gurnani. As to the other listed defendants and the remaining averments, Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments contained in paragraph number thirty-eight; therefore, on that basis the averments are denied.
39. Denied as to the willful infringement of Plaintiff's works as to Defendant Gurnani. As to the other listed defendants and the remaining averments, Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments contained in paragraph number thirty-nine; therefore, on that basis the averments are denied.
40. Denied. Defendant also denies that Plaintiff are entitled to relief as requested in their prayer.

**COUNT III - VICARIOUS COPYRIGHT INFRINGEMENT**

41. Defendant repeats and re-alleges each and every allegation contained in the preceding paragraphs as if set forth fully herein.
42. Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments contained in paragraph number forty-two; therefore, the averments in paragraph forty-two are denied.
43. Denied as to Defendant Gurnani. As to the other listed defendants and the remaining averments, Defendant is without knowledge or information sufficient to form a belief as to

the truth of the averments contained in paragraph number forty-three; therefore, on that basis the averments are denied.

44. Denied as to Defendant Gurnani. As to the other listed defendants and the remaining averments, Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments contained in paragraph number forty-four; therefore, on that basis the averments are denied.

45. Denied.

46. Denied as to the willful and unauthorized copying, production, distribution, sale and display of the infringement of Plaintiff's works as to Defendant Gurnani. As to the other listed defendants and the remaining averments, Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments contained in paragraph number forty-six; therefore, on that basis the averments are denied.

47. Denied as to the willful infringement of Plaintiff's works as to Defendant Gurnani. As to the other listed defendants and the remaining averments, Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments contained in paragraph number forty-seven; therefore, on that basis the averments are denied.

48. Denied as to the willful infringement of Plaintiff's works as to Defendant Gurnani. As to the other listed defendants and the remaining averments, Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments contained in paragraph number forty-eight; therefore, on that basis the averments are denied.

49. Denied. Defendant also denies that Plaintiff are entitled to relief as requested in their prayer.

**AFFIRMATIVE DEFENSES**

Defendant alleges as his affirmative defenses, the following:

50. The Complaint fails to state a claim on which relief can be granted.
51. Plaintiff lacks standing.
52. Defendant's alleged conduct (if any) constitutes fair use.
53. The Complaint is barred by Laches.
55. Defendant did not infringe any copyright rights of Plaintiff.
56. Plaintiff waived its claims.
57. Plaintiff is estopped from asserting its claims.
58. Plaintiff has unclean hands.
59. Plaintiff has engaged in misuse of its copyright registration(s) and therefore under the doctrine of copyright misuse prevented from asserting any copyright registration against Defendant.
60. Plaintiff engaged in fraud on the Copyright Office in obtaining the subject registrations.
61. Plaintiff is not the owner of the subject registrations.
62. Plaintiff cannot satisfy the requirements applicable to its request for injunctive relief and has an adequate remedy at law.
63. Plaintiff is not entitled to the relief requested.
64. Defendant reserves all affirmative defenses permitted under the Federal Rules of Civil Procedure, the copyright laws of the United States and/or at law or in equity, that may now exist or in the future be available based on discovery and further investigation of this



case.

**JURY DEMAND**

65. Defendant demands a trial by jury on all issues.

**PRAYER**

Defendant, Prashant Gurnani d/b/a Oro Grande, respectfully prays that:

66. All relief requested by Plaintiff be denied;
67. Defendant, Prashant Gurnani, be awarded cost in this action; and,
68. Defendant, Prashant Gurnani, be awarded reasonable attorney's fee as the prevailing party under 17 U.S.C. § 505.

Respectfully submitted

JACKSON WALKER, L.L.P.  
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By: /s/ William B. Nash  
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ATTORNEYS FOR DEFENDANT  
PRASHANT GURNANI  
d/b/a ORO GRANDE

**CERTIFICATE OF SERVICE**

I hereby certify that on this 1st day of February, 2010, a true and correct copy of the foregoing was sent via ECF/CM to the following:

J. Daniels Harkins  
COX SMITH MATHEWS INCORPORATED  
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/s/ William B. Nash  
WILLIAM B. NASH